

Internal Revenue Service, Treasury

§ 301.6611-1

to the date on which payment is received. This paragraph (f)(3) is applicable with respect to any notice and demand made after December 31, 1996.

(4) If notice and demand is made after December 31, 1996, for any amount and the amount is paid within 21 calendar days (10 business days if the amount assessed and shown on the notice and demand equals or exceeds \$100,000) from the date of the notice and demand, interest will not be imposed for the period after the date of the notice and demand.

(5) For purposes of paragraphs (f)(3) and (4) of this section—

(i) The term *business day* means any day other than a Saturday, Sunday, legal holiday in the District of Columbia, or a statewide legal holiday in the state where the taxpayer resides or where the taxpayer's principal place of business is located. With respect to the tenth business day (after taking into account the first sentence of this paragraph (f)(5)(i)), see section 7503 relating to time for performance of acts where the last day falls on a statewide legal holiday in the state where the act is required to be performed.

(ii) The term *calendar day* means any day. With respect to the twenty-first calendar day, see section 7503 relating to time for performance of acts where the last day falls on a Saturday, Sunday, or legal holiday.

(6) No interest shall be imposed for failure to pay estimated tax as required by section 59 of the Internal Revenue Code of 1939 or section 6153 or 6154 of the Internal Revenue Code of 1954.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7238, 37 FR 28742, Dec. 29, 1972; T.D. 7301, 39 FR 978, Jan. 4, 1974; T.D. 7384, 40 FR 49324, Oct. 22, 1975; T.D. 7838, 47 FR 44252, Oct. 7, 1982; T.D. 7907, 48 FR 38230, Aug. 23, 1983; T.D. 8725, 62 FR 39117, July 22, 1997]

§ 301.6602-1 Interest on erroneous refund recoverable by suit.

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to section 7405, shall bear interest at the annual rate referred to in the regulations under

section 6621 from the date of the payment of the refund.

[T.D. 7384, 40 FR 49324, Oct. 22, 1975]

INTEREST ON OVERPAYMENTS

§ 301.6611-1 Interest on overpayments.

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the annual rate referred to in the regulations under section 6621 from the date of overpayment of the tax.

(b) *Date of overpayment.* Except as provided in section 6401(a), relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability. For rules relating to the determination of the date of payment in the case of an advance payment of tax, a payment of estimated tax, and a credit for income tax withholding, see paragraph (d) of this section.

(c) *Examples.* The application of paragraph (b) may be illustrated by the following examples:

Example 1. Corporation X files an income tax return on March 15, 1955, for the calendar year 1954 disclosing a tax liability of \$1,000 and elects to pay the tax in installments. Subsequent to payment of the final installment, the correct tax liability is determined to be \$900.

Tax liability	
Assessed	\$1,000
Correct liability	900
Overassessment	100
Record of payments	
Mar. 15, 1955	\$500
June 15, 1955	500

Since the correct liability in this case is \$900, the payment of \$500 made on March 15, 1955, and \$400 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$100) constitutes the amount of the overpayment, and the date on which such payment was made would be the

date of the overpayment from which interest would be computed.

Example 2. Corporation Y files an income tax return for the calendar year 1954 on March 15, 1955, disclosing a tax liability of \$50,000, and elects to pay the tax in installments. On October 15, 1956, a deficiency in the amount of \$10,000 is assessed and is paid in equal amounts on November 15 and November 26, 1956. On April 15, 1957, it is determined that the correct tax liability of the taxpayer for 1954 is only \$35,000.

<i>Tax liability</i>	
Original assessment	\$50,000
Deficiency assessment	10,000
Total assessed	60,000
Correct liability	35,000
Overassessment	25,000
<i>Record of payments</i>	
Mar. 15, 1955	\$25,000
June 15, 1955	25,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

Since the correct liability in this case is \$35,000, the entire payment of \$25,000 made on March 15, 1955, and \$10,000 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$15,000), plus the amounts paid on November 15 (\$5,000), and November 26, 1956 (\$5,000), constitute the amount of the overpayment. The dates of the overpayments from which interest would be computed are as follows:

Date	Amount of overpayment
June 15, 1955	\$15,000
Nov. 15, 1956	5,000
Nov. 26, 1956	5,000

The amount of any interest paid with respect to the deficiency of \$10,000 is also an overpayment.

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* In the case of an advance payment of tax, a payment of estimated income tax, or a credit for income tax withholding, the provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of the period of limitations on credit or refund, shall apply in determining the date of overpayment for purposes of computing interest thereon.

(e) *Refund of income tax caused by carryback.* If any overpayment of tax imposed by subtitle A of the Code re-

sults from the carryback of a net operating loss, a net capital loss, an investment credit, or a work incentive (WIN) credit, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the end of the taxable year in which the loss or credit arises, or, with respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

(f) *Refund of income tax caused by carryback of foreign taxes.* For purposes of paragraph (a) of this section, any overpayment of tax resulting from a carryback of tax paid or accrued to foreign countries or possessions of the United States shall be deemed not to have been paid or accrued before the close of the taxable year under subtitle F of the Code in which such taxes were in fact paid or accrued.

(g) *Period for which interest allowable in case of refunds.* If an overpayment of tax is refunded, interest shall be allowed from the date of the overpayment to a date determined by the district director or the director of the regional service center, which shall be not more than 30 days prior to the date of the refund check. The acceptance of a refund check shall not deprive the taxpayer of the right to make a claim for any additional overpayment and interest thereon, provided the claim is made within the applicable period of limitation. However, if a taxpayer does not accept a refund check, no additional interest on the amount of the overpayment included in such check shall be allowed.

(h) *Period for which interest allowable in case of credits—(1) General rule.* If an overpayment of tax is credited, interest shall be allowed from the date of overpayment to the due date (as determined under subparagraph (2) of this paragraph (h)) of the amount against which such overpayment is credited.

(2) *Determination of due date—(i) In general.* The term “due date”, as used in this section, means the last day

fixed by law or regulations for the payment of the tax (determined without regard to any extension of time), and not the date on which the district director or the director of the regional service center makes demand for the payment of the tax. Therefore, the due date of a tax (other than an additional assessment subject to the special rule provided by subdivision (iv) of this subparagraph) is the date fixed for the payment of the tax or the several installments thereof.

(ii) *Tax payable in installments—(a) In general.* In the case of a credit against a tax, where the taxpayer had properly elected to pay the tax in installments, the due date is the date prescribed for the payment of the installment against which the credit is applied.

(b) *Delinquent installment.* If the taxpayer is delinquent in payment of an installment of tax and a notice and demand has been issued for the payment of the delinquent installment and the remaining installments, the due date of each remaining installment shall then be the date of such notice and demand.

(iii) *Tax or installment not yet due.* If a taxpayer agrees to the crediting of an overpayment against tax or an installment of tax and the schedule of allowance is signed prior to the date on which such tax or installment would otherwise become due, then the due date of such tax or installment shall be the date on which such schedule is signed.

(iv) *Additional assessment satisfied by credit before January 1, 1958.* In the case of a credit made before January 1, 1958, against an additional assessment, the due date of the tax satisfied by the credit is the date the additional assessment was made. For purposes of this subdivision, the term “additional assessment” means a further assessment of a tax of the same character previously paid in part, and includes the assessment of a deficiency as defined in section 6211.

(v) *Interest.* In the case of a credit against interest that accrues for any period ending prior to January 1, 1983, the due date is the earlier of the date of assessment of such interest or December 31, 1982. In the case of a credit against interest that accrues for any period beginning on or after December

31, 1982, such interest is due as it economically accrues on a daily basis, rather than when it is assessed.

(vi) *Additional amount, addition to the tax, or assessable penalty.* In the case of a credit against an additional amount, addition to the tax, or assessable penalty, the due date is the earlier of the date of assessment or the date from which such amount would bear interest if not satisfied by payment or credit.

(vii) *Estimated income tax for succeeding year.* If the taxpayer elects to have all or part of the overpayment shown by his return applied to his estimated tax for his succeeding taxable year, no interest shall be allowed on such portion of the overpayment credited and such amount shall be applied as a payment on account of the estimated tax for such year or the installments thereof.

(i) [Reserved]

(j) *Refund of overpayment.* No interest shall be allowed on any overpayment of tax imposed by subtitle A of the Code if such overpayment is refunded—

(1) In the case of a return filed on or before the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing such return), within 45 days after such last date, or

(2) After December 17, 1966, in the case of a return filed after the last day prescribed for filing the return, within 45 days after the date on which the return is filed.

However, in the case of any overpayment of tax by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, “60 days” shall be substituted for “45 days” each place it appears in this paragraph.

(k) *Effective date.* Paragraphs (h)(2)(v) and (h)(2)(vi) of this section are effective for credits made on or after August 25, 1992.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7301, 39 FR 979, Jan. 4, 1974; T.D. 7384, 40 FR 49325, Oct. 22, 1975; T.D. 7415, 41 FR 14369, Apr. 5, 1976; T.D. 8524, 59 FR 10076, Mar. 3, 1994]

§ 301.6621-1

26 CFR Ch. I (4-1-01 Edition)

DETERMINATION OF INTEREST RATE

§ 301.6621-1 Interest rate.

(a) *In general.* The interest rate established under section 6621 shall be—

(1) On amounts outstanding before July 1, 1975, 6 percent per annum (or 4 percent in the case of certain extensions of time for payment of taxes as provided in sections 6601 (b) and (j) prior to amendment by section 7(b) of the Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115), and certain overpayments of the unrelated business income tax as provided in section 514(b)(3)(D), prior to its amendment by such Act).

(2) On amounts outstanding—

After	And before	Rate per annum (percent)
June 30, 1975	Feb. 1, 1976	9
Jan. 31, 1976	Feb. 1, 1978	7
Jan. 31, 1978	Feb. 1, 1980	6
Jan. 31, 1980	Feb. 1, 1982	12
Jan. 31, 1982	Jan. 1, 1983	20

(3) On amounts outstanding after December 31, 1982, the adjusted rate established by the Commissioner under section 6621(b). This adjusted rate shall be published by the Commissioner in a Revenue Ruling. See § 301.6622-1 for application of daily compounding in determining interest accruing after December 31, 1982. Because interest accruing after December 31, 1982, accrues at the prescribed rate per annum compounded daily, the effective annual percentage rate of interest will exceed the prescribed rate of interest.

(b) [Reserved]

(c) *Applicability of interest rate—(1) Computation.* Interest and additions to tax on any amount outstanding on a specific day shall be computed at the annual rate applicable on such day.

(2) *Additions to tax.* Additions to tax under any section of the Code that refers to the annual rate established under this section, including sections 644(a)(2)(B), 4497(c)(2), 6654(a), and 6655 (a) and (g), shall be computed at the same rate per annum as the interest rate set forth under paragraph (a) of this section.

(3) *Interest.* Interest provided for under any section of the Code that refers to the annual rate established under this section, including sections 47(d)(3)(G), 167(q), 6332(c)(1), 6343(c),

6601(a), 6602, 6611(a), 7426(g), and section 1961(c)(1) or 2411 of title 28 of the United States Code, shall be computed at the rate per annum set forth under paragraph (a) of this section.

(d) *Examples.* The provisions of this section may be illustrated by the following examples. Example 6 illustrates the computation of interest for interest accruing after December 31, 1982.

Example 1. A, an individual, files an income tax return for the calendar year 1974 on April 15, 1975, showing a tax due of \$1,000. A pays the \$1,000 on September 1, 1975. Pursuant to section 6601(a), interest on the underpayment of \$1,000 is computed at the rate of 6 percent per annum from April 15, 1975, to June 30, 1975, a total of 76 days. Interest for 63 days, from June 30, 1975, to September 1, 1975, shall be computed at the rate of 9 percent per annum.

Example 2. An executor of an estate is granted, in accordance with section 6161(a)(2)(A), a two-year extension of time for payment of the estate tax shown on the estate tax return, which tax was otherwise due on January 15, 1974. The tax is paid on January 15, 1976. Interest on the underpayment shall be computed at the rate of 4 percent per annum from January 15, 1974, to June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, to January 15, 1976.

Example 3. X, a corporation, files its 1973 corporate income tax return on March 15, 1974, and pays the balance of tax due shown thereon. On August 1, 1975, an assessment of a deficiency is made against X with respect to such tax. The deficiency is paid on October 1, 1975. Interest at the rate of 6 percent per annum is due on the deficiency from March 15, 1974, the due date of the return, to June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, to October 1, 1975.

Example 4. Y, an individual, files an amended individual income tax return on October 1, 1975, for the refund of an overpayment of income tax Y made on April 15, 1975. Interest is allowed on the overpayment to December 1, 1975. Pursuant to section 6611(a), interest is computed at the rate of 6 percent per annum from April 15, 1975, the date of overpayment, to June 30, 1975. Interest from June 30, 1975, to December 1, 1975, shall be computed at the rate of 9 percent per annum.

Example 5. A, an individual, is liable for an addition to tax under section 6654 for the underpayment of estimated tax from April 15, 1975 until January 15, 1976. The addition to tax shall be computed at the annual rate of 6 percent per annum from April 15, 1975, to June 30, 1975, and at the annual rate of 9 percent per annum from June 30, 1975, to January 15, 1976.

Example 6. B, an individual, files an income tax return for calendar year 1980 on April 15,